

ENTERED

February 27, 2025

Nathan Ochsner, Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

DWAYNE RIVENS-BAKER, JR.,

Plaintiff,

v.

BRYAN COLLIER, *et al.*,

Defendants.

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CIVIL ACTION NO. 2:23-CV-00334

ORDER ADOPTING MEMORANDUM & RECOMMENDATION

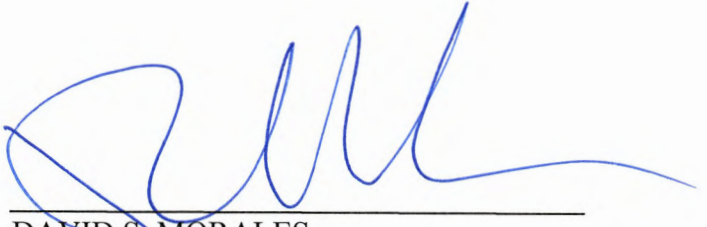
Before the Court is Magistrate Judge Julie Hampton's Memorandum and Recommendation ("M&R"). (D.E. 34). The M&R recommends that the Court grant in part and deny in part Defendants' motion to dismiss. *Id.* at 1.

The parties were provided proper notice of, and the opportunity to object to, the Magistrate Judge's M&R. *See* 28 U.S.C. § 636(b)(1); FED. R. CIV. P. 72(b); General Order No. 2002-13. No objection has been filed. When no timely objection has been filed, the district court need only determine whether the Magistrate Judge's M&R is clearly erroneous or contrary to law. *United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989) (per curiam); *Powell v. Litton Loan Servicing, L.P.*, No. 4:14-CV-02700, 2015 WL 3823141, at *1 (S.D. Tex. June 18, 2015) (Harmon, J.) (citation omitted).

Having reviewed the proposed findings and conclusions of the Magistrate Judge, the filings of the parties, the record, and the applicable law, and finding that the M&R is not clearly erroneous or contrary to law, the Court **ADOPTS** the M&R in its entirety. (D.E. 34). The Court **GRANTS in part** and **DENIES in part** Defendants' motion to dismiss. (D.E. 20). Accordingly, the Court:

- **DISMISSES with prejudice** Plaintiff's Eighth Amendment deliberate indifference claim against Sgt. Salinas in his individual capacity for monetary damages;
- **DISMISSES with prejudice** Plaintiff's Eighth Amendment excessive force claims against Assistant Warden Samaniego and Executive Director Collier in their supervisory and individual capacities for allegedly putting into place allegedly unconstitutional use-of-force policies;
- **DISMISSES without prejudice** Plaintiff's Eighth Amendment claim—related to TDCJ policies allegedly encouraging excessive and unnecessary use of force—against Executive Director Collier in his official capacity for injunctive relief;
- **DENIES** Defendants' motion with respect to Plaintiff's Eighth Amendment excessive force claims against Sgt. Salinas and Sgt. Anciso in their individual capacities for monetary damages; and
- **DENIES** Defendants' motion with respect to Plaintiff's Eighth Amendment deliberate indifference claim against Assistant Warden Samaniego in his individual capacity for monetary damages.

SO ORDERED.



DAVID S. MORALES
UNITED STATES DISTRICT JUDGE

Signed: Corpus Christi, Texas
February 26th, 2025